

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JOHN A. MOFFETT,

Plaintiff,

vs.

SMF SYSTEMS CORPORATION, a Maryland corporation; TOM CAFFREY; RUBY CAFFREY; DOE CORPORATIONS 1-20; DOE PARTNERSHIPS 1-20; DOE ENTITIES 2-10; JOHN DOES 1-20; JANE DOES 1-20; DOE GOVERNMENTAL AGENCIES 1-20,

Defendants.

CIVIL NO. 03-00130 MLR/BMK

AFFIDAVIT OF ANNE T.
HORIUCHI BELL

AFFIDAVIT OF ANNE T. HORIUCHI BELL

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU)
) SS.

ANNE T. HORIUCHI BELL, being duly sworn on oath, declares and

says:

1. I am one of the attorneys for Plaintiff John A. Moffett in this action and am licensed to practice law in all courts of the State of Hawaii. I make this affidavit on personal knowledge.

2. On May 18, 2005, Defendants' counsel Nichole Shimamoto

contacted me by telephone to ask which claims Plaintiff would stipulate to dismiss. I asked Ms. Shimamoto to draft a letter setting forth the specific claims Defendants proposed to have dismissed. I expected that defense counsel would provide a letter and perhaps a proposed stipulation, similar to what they had provided to Plaintiff on May 16, 2005.

3. Plaintiff filed a Motion to Compel Production of Documents from Defendants on January 26, 2005. I attended the hearing on the Motion to Compel on March 11, 2005. At the hearing on the Motion, the Court stated its rulings on the numerous issues raised by Plaintiff. Among other things, the Court ordered Defendants to allow Plaintiff to inspect documents responsive to Request Nos. 17 and 18, within a time that is appropriate. *See Order Granting in Part and Denying in Part Plaintiff's Motion to Compel Production of Documents by Defendants SMF Systems Corporation, Tom Caffrey and Ruby Caffrey* (Filed 1/26/05), filed herein on April 26, 2005. Request Nos. 17 and 18 sought documents between Defendants and Plaintiff and between Defendants' attorneys and Plaintiff following his termination, and documents relating to legal proceedings initiated by Defendants against Plaintiff.

4. Following the hearing, Plaintiff requested a time to inspect the documents responsive to Request Nos. 17 and 18, as ordered by the Court. Defendants responded that the documents could be inspected in San Ramon,

California, on March 31, 2005 or April 1, 2005, which were the dates of the depositions of Defendants Tom and Ruby Caffrey. I later learned from Donna Kalama, who took the depositions of the Caffrey Defendants, that no documents were made available for inspection. I brought this to the attention of Defendants' local counsel and again requested a time to inspect the responsive documents. Defendants failed to respond to these requests, and as such, the responsive documents could not be inspected prior to the discovery cutoff of April 15, 2005.

Further affiant sayeth naught.

Anne T. Horiuchi Bell
ANNE T. HORIUCHI BELL

Subscribed and sworn to before me
this 12th day of January, 2006.

Lorrie T. Cuartero

Printed Name: Lorrie T. Cuartero
Notary Public, State of Hawaii

My Commission expires: 9/19/2008

